IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 53 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

NUTAN MILLS LTD.

Appearance:
MR BB NAIK with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 16/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

In this reference at the instance of the revenue, the following question of law is referred for our opinion in respect of Assessment Year 1978-79 :-

"Whether on the facts and in the circumstances of the case, interest under section 220(2) of the

I.T. Act, 1961 was chargeable in this case ?"

2. Though served, none appears for the respondents. We have heard the learned counsel for the revenue. The learned counsel for the revenue points out that the controversy raised herein is concluded by the decision of this Court in Roopali Dyeing & Printing Works vs. CIT, (1995) 212 ITR 573 wherein this Court has taken a view that Section 220(2) of the Income-tax Act, 1961, refers to the charging of interest on the sum specified in the notice of demand under section 156. A notice of demand under section 156, in the context, necessarily means a notice of demand in pursuance of an order creating the demand for the first time. When such order creating a demand is subjected to other proceedings under the Act, which may result in reduction of the demand, the proviso to section 220(2) comes into operation and the demand of interest is to be reduced in terms of such reduced demand. Obviously, reduction in demand under section 220(2), proviso, refers to the demand as reduced by the order which ultimately becomes final as a result of one or more proceedings taken under the Act and not at every stage of proceedings amongst the multiple appellate forums provided under the Act.

3. In view of the aforesaid binding decision of this Court, we answer the question in the affirmative i.e. in favour of the revenue and against the assessee.

The reference accordingly stands disposed of with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

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